

THE CITY OF CLAYTON

Board of Aldermen Meeting
The Center of Clayton – 50 Gay Avenue
September 11, 2012
7:15 p.m.

Minutes

Mayor Goldstein called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Andrea Maddox-Dallas, Cynthia Garnholz, Mark Winings, Joanne Boulton, and Alex Berger III.

Mayor Goldstein
City Manager Owens
City Attorney O'Keefe

Mayor Goldstein asked for any questions or comments relating to the August 28, 2012 minutes, which were previously provided to the Board.

Alderman Garnholz moved to approve the August 28, 2012 minutes. Alderman Harris seconded the motion.

The motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

Mayor Goldstein acknowledged that today was the anniversary of September 11, one of the most tragic events of the nation's history. She said that it is appropriate to remember the victims of this tragedy, but to also be thankful that we are fortunate as it relates to our government and our freedom as citizens.

Mr. Ken Heinz, citizen, businessman, and business resident of Clayton for 40 years gave a presentation on a proposed veteran's memorial project started by a group of volunteers. He said that the volunteer group felt all veterans, not just those who served in a specific war or event, should be honored in some way with a memorial. The City of Richmond Heights has donated land for the placement of the memorial and the group is in the process of fund raising. Mr. Heinz shared a depiction of what the memorial will look like once it is completed. Mr. Heinz stated that the project would cost approximately \$300,000 and that the group is planning to submit a grant application to St. Louis County Parks Association at the beginning of the year. They anticipate breaking ground on Memorial Day 2013 with a dedication scheduled for September 11, 2013. He encouraged anyone to contact him if they would like for him to speak to any groups about the project.

A PUBLIC HEARING AND RELATED ORDINANCE TO CONSIDER AMENDMENTS TO CHAPTER 405, ZONING REGULATIONS, TO INCLUDE DRIVE THROUGH ESTABLISHMENTS FOR FINANCIAL INSTITUTIONS AS A CONDITIONALLY PERMITTED USE IN THE NEIGHBORHOOD COMMERCIAL (C-1) ZONING DISTRICT

Mayor Goldstein reminded everyone that this agenda is a continuation of the public hearing regarding the C-1 zoning designation. At the last meeting the item was tabled because not all of

the Board members were in attendance and it would have been important to hear everyone's comments. She stated that the Board heard a presentation at the last meeting with one public comment from a citizen and noted that there was no citizen comment during the Plan Commission meeting. At the last meeting she asked the Board to contact the neighborhood trustees and try to get input prior to tonight's meeting.

Mayor Goldstein reminded the Board and the public that the public hearing is still officially open and invited Mr. Gary Feder to again give a brief summary of his presentation in order to bring everyone up-to-date on the proposal and to also hear public comments from the audience.

Mr. Gary Feder, Attorney/Partner, Husch Blackwell, 190 Carondelet Plaza, representative for Greenstreet Real Estate Ventures, LLC and Fifth Third Bank, stated that both of his clients have purchased properties on Maryland Avenue in the Maryland Gateway District. Mr. Feder stated that both entities anticipate as part of their development the utilization of a financial institution. Fifth Third Bank, who has headquarters in Clayton, would like to expand and serve banking needs of the community to include a drive-through and ATM facilities. Greenstreet Real Estate Ventures, LLC is requesting the zoning for the Mini-Cooper property to use in accordance to those needs. Mr. Feder said that the request is not a matter of the Board approving any proposed projects; it is a matter to have the right to submit an application and he feels that the developers have no rights to do so because of the current zoning.

Mr. Feder expressed his disagreement with the staff report that says that a super majority vote of the Board of Aldermen is required. He said that the Plan Commission had a tie vote and therefore did not make a recommendation to the Board. He said that he and his clients met with staff after the last Board meeting and heard staff's concerns about the developer's (informal) plans for use at the site (i.e. one-user, inadequate space, and parking). He said that they submitted a new (informal) plan this week that will have a second user and the frontage will be pedestrian friendly. He said that initially he felt that the C-1 text amendment request seemed appropriate by simply allowing for a conditional use permit, but had not thought about the possible approval being applied to other properties throughout the city. He suggested to the Board to propose approving new "language" to only apply to the Maryland Gateway District and possibly other specific areas. He feels that this is a reasonable compromise and suggests that the Board consider this new suggestion and not consider submitting the initial request back to the Plan Commission.

Alderman Garnholz asked Mr. Feder why is the text amendment superior to his way of thinking than the rezoning which would be site specific for each particular site. Mr. Feder stated that he considered every possible way to approach the matter, but the C-1 zoning and the issue that was presented to them originally for rezoning led to either a C-2 rezoning or an S-1 rezoning. He said the C-1 is the more restrictive in terms of building heights while the other two zoning districts are more flexible and provided more opportunity. His two clients had no interest in any kind of height beyond what is available in the C-1 zoning and felt that this zoning was the more reasonable alternative and least intrusive as it relates to the surrounding area.

Mayor Goldstein reminded everyone that they are not here tonight to decide on a particular bank or plan, but to consider the question to modify the C-1 zoning and to include drive-through banks. She clarified that C-1 is a type of zoning that "buffers" a residential area and is considered "light" commercial. She said that some of the areas in the community, not just the two parcels of land in question, but also places like the DeMun area that includes Kaldi's, the area of Wydown and Hanley that includes Starbucks, I Fratellini, and Manhatten Café, the stretch along Clayton Road that backs up to the Davis Place subdivision is also C-1 zoned. Those locations also give everyone the idea of what is being considered by the Board tonight, and that is the text amendment which would apply to all those areas that are zoned C-1.

Ms. Mary DeBenedetti, 7608 Carswold Drive, addressed the Board encouraging them to make no changes to the current C-1 zoning and to not allow bank drive-throughs.

Ms. Andrea LeBarge, 111 N. Forsyth, addressed the Board stating that she is a property owner currently constructing a home at this address. She said that she would not have considered the property if the zoning was different. She said that drive-throughs do not enhance the neighborhoods, especially in a commercial district that backs up to a residential community and not only will it attract potential lines of traffic, but if approved it can set precedence for future drive-throughs. She urged the Board to consider rejecting the request for a text amendment.

Mr. Eric Sartorius, 8032 Seminole Drive, addressed the Board stating that he has been a resident of Clayton for 14 months. He said that he thought the staff report was very well stated and feels that the C-1 zoning sets the vision for the Maryland Avenue corridor and other areas that buffer residences in order to protect the neighborhoods. He said that if the text amendment is approved and drive-throughs are allowed it will become much easier for other drive-through projects in the future. He thought it was confusing for the earlier speaker to suggest that patrons would use the drive-throughs only during the business hours, because these types of facilities are used at all hours of the day and night. He said that with his property that backs up to the proposed property in question he is concerned about the noise, lights, and air pollution. He commented that it is difficult to imagine that the developers didn't review the city's zoning code before purchasing the property and he believes that they entered into the purchasing options with full knowledge of the zoning code. Mr. Sartorius urged the Board to be careful in going down this path and stated that he likes the city of Clayton and its walkability and pedestrian friendly neighborhoods both residential and commercial.

Ms. Laurel Harrington, 8012 Seminole Drive, addressed the Board stating that her neighborhood is a very quiet community and expressed her concern about how the text amendment can change the Clayton.

Mr. Feder pointed out that the property in question has held an auto dealership for many years and has always had a layout of a drive-through and a parking lot with cars coming in and out of it at that location with a commercial property on the Gay Avenue side. He asked the Board to keep in mind that his request for the text amendment is appropriate and important in order to go through the (CUP) application process.

Alderman Harris moved to close the public hearing with regard to Bill No. 6345, an ordinance to approve text amendments to Chapter 405 to allow drive through establishments to the next meeting. Alderman Maddox-Dallas seconded.

The motion passed unanimously on a voice vote.

Mayor Goldstein thanked Mr. Feder and the developers for coming back and working with staff in order to come up with creative solutions. She commented that it is very appealing and welcoming, especially in this economy, to be approached by developers with two new projects.

Mayor Garnholz reminded everyone that not all of the Plan Commission members were present during the last meeting, therefore resulting in a tie vote and they were not able to hear input from all of all of the members. She suggested sending the issue back to the Plan Commission, receive additional public input, and let the Plan Commission decide with a recommendation to be brought to the Board of Aldermen.

Alderman Berger commented that this would be a great opportunity for the staff to continue dialogue and stated that he is in support of Alderman Garnholz's suggestion.

Mayor Goldstein commented that those were both good points and added that Clayton's professional staff is well versed and knowledgeable and can go to the Plan Commission with a resolution.

Alderman Maddox-Dallas agreed with Mayor Goldstein and Aldermen Garnholz and Berger.

Alderman Harris moved to remand Bill No. 6345, an ordinance to approve text amendments to Chapter 405 to allow drive through establishments back to the City Plan Commission. Alderman Maddox-Dallas seconded.

The motion passed unanimously on a voice vote.

Mayor Goldstein commented that she would like to see a solution that will work for everyone.

AN ORDINANCE TO HOLD A PUBLIC HEARING AND CONSIDER APPROVING THE TAX YEAR 2012 PROPERTY TAX LEVY FOR FY 2013 BUDGET – SECOND READING ONLY

Alderman Harris introduced Bill No. 6343, an ordinance to set the property tax levies for tax year 2012 to be read for the second time by title only. Alderman Maddox-Dallas seconded.

Mayor Goldstein thanked City Manager Owens and Janet Watson for all of their hard work and also for providing the comparative rates and graphs to the Board since the last meeting.

Mayor Goldstein commented that she found it interesting that the city's tax rates for both commercial and residential and commercial were higher in 2006 compared to proposed rates for 2012.

City Attorney O'Keefe reads Bill No. 6343, an Ordinance Levying and Establishing the Rate of Annual Taxes for General Municipal Purposes; Police Building Debt Service; General Obligation Bond Debt Service; and, Special Business District Purposes to be collected by the City of Clayton, Missouri, for the Year 2012 for the second time by title only.

The motion passed 6-1 on a roll call vote: Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Nay; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6226 of the City of Clayton.

AN ORDINANCE AND PUBLIC HEARING TO CONSIDER APPROVAL OF THE PROPOSED FISCAL YEAR 2013 OPERATING AND CAPITAL IMPROVEMENTS BUDGET (SECOND READING)

Alderman Harris introduced Bill No. 6344, an ordinance to approve the FY2013 Budget to be read for the second time by title only. Alderman Maddox-Dallas seconded.

Mayor Goldstein commented by reviewing the history and timeline of the budget process, three public forums were held on July 17 and 18; the Board conducted budget work sessions on July 19, July 26, and on August 17 and all were open to the public. She reported that the Board requested staff to provide a three-year plan to balance the budget, which staff delivered, and she anticipates maintaining a 50% reserve after the start of 2015.

Alderman Harris commented that the budget process went through a very good public engagement and they all received a fair amount of input from the citizens and she felt the process worked.

City Attorney O'Keefe reads Bill No. 6344, for consideration of an ordinance adopting an annual budget for the fiscal year 2013 commencing on October 1, 2012 and appropriating funds pursuant thereto for the first time by title only.

The motion passed (6-1) by a roll call vote: Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Nay; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6227 of the City of Clayton.

AN ORDINANCE TO CONSIDER AMENDING THE NON-UNIFORMED EMPLOYEES RETIREMENT PLAN TO INCLUDE THE ONE-TIME ADDITION OF A DEFERRED RETIREMENT OPTION PROGRAM – SECOND READING ONLY

Alderman Harris introduced Bill No. 6346, an ordinance to approve the DROP program for the Non-Uniformed Employee Retirement Fund to be read for the second time by title only. Alderman Maddox-Dallas seconded.

City Attorney O'Keefe reads Bill No. 6346, an ordinance for consideration to amend the City of Clayton Non-Uniformed Employees Retirement Plan and Trust by including a one-time offering of a Deferred Retirement Option Program for the second time.

The motion passed unanimously on a voice vote: Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6228 of the City of Clayton.

AN ORDINANCE TO CONSIDER AMENDING THE UNIFORMED EMPLOYEES RETIREMENT PLAN TO INCLUDE THE ONE-TIME ADDITION OF A DEFERRED RETIREMENT OPTION PROGRAM – SECOND READING ONLY

Alderman Harris introduced Bill No. 6347, an ordinance to approve the DROP program for the Uniformed Employee Retirement Fund to be read for the second time by title only. Alderman Maddox-Dallas seconded.

City Attorney O'Keefe reads Bill No. 6347, an ordinance amending the City of Clayton Uniformed Employees Retirement Plan and Trust by including a one-time offering of a Deferred Retirement Option Program for the second time by title only.

The motion passed unanimously on a voice vote: Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6229 of the City of Clayton.

AN ORDINANCE TO CONSIDER AMENDING SECTION 425.170 OF THE CITY OF CLAYTON, MISSOURI, CITY CODE PERTAINING TO WINDOW COVERINGS FOR VACANT STORE FRONTS

Alderman Harris introduced Bill No. 6350, an ordinance to approve an amendment to chapter 425, related to window coverings for vacant ground floor buildings for the first time by title only. Alderman Maddox-Dallas seconded.

Mayor Goldstein stated that the Board was given a good presentation by staff at the last meeting and the rationale was to create a more visual appeal to the vacant buildings.

Alderman Berger commented that this is a very creative solution and commended the staff for coming up with the idea.

City Attorney O'Keefe reads Bill No. 6350, an ordinance amending Section 425.170 of the City Of Clayton, Missouri, City Code pertaining to window coverings for vacant store fronts for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Harris introduced Bill No. 6350, an ordinance to approve an amendment to chapter 425, related to window coverings for vacant ground floor buildings for the second time by title only. Alderman Maddox-Dallas seconded.

City Attorney O'Keefe reads Bill No. 6350, an ordinance amending Section 425.170 of the City Of Clayton, Missouri, City Code pertaining to window coverings for vacant store fronts for the second time.

The motion passed unanimously on a voice vote: Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6230 of the City of Clayton.

A MOTION TO CONSIDER APPROVING THE FY 2013 BUDGET FOR THE CENTER OF CLAYTON

Alderman Harris moved to approve the FY2013 Budget for The Center of Clayton. Alderman Maddox-Dallas seconded.

Alderman Harris commended Patty DeForrest and Tim Wonnish for all of their hard work on the budget and also for developing a 10-year capital improvement plan.

The motion passed unanimously on a voice vote.

Other

Mayor Goldstein commended the Fire Department for their stair climb event in memory of those emergency responders who lost their life on September 11, 2001. The participants climbed the stairs of the Pierre Laclède building. The climb consisted of going up (and down) the stairs five times for a total of 110 stories. Each participant carried a photo of a person who perished in the tragedy.

Mayor Goldstein commended the staff for a job well done for the Art Fair event.

Mayor Goldstein reported that the Strategic Plan Steering Committee met this week and was very productive in preparing for the upcoming Action Conference.

Mayor Goldstein reported that the Mayor's Youth Advisory Council met this week and is becoming very active in preparation for the 2012-2013 school year.

Mayor Goldstein reminded everyone about the Boards and Commissions' reception to be held this Friday at the Garden Café.

Mayor Goldstein reminded everyone that the next Board of Aldermen meeting is scheduled for next week, September 18 immediately following the Plan Commission meeting.

Alderman Maddox-Dallas reported that the Parks and Recreation Commission met this week where they proposed to name the new park, Haddington Park.

Aldermen Garnholz and Berger both commented that the Art Fair event was fantastic. Alderman Berger commended Chief Byrne on a great job during the emergency evacuation due to the inclement weather.

Alderman Berger commented on getting a photo of our current and two former city managers all together enjoying the Art Fair.

City Manager Owens thanked Janet Watson and her staff for all of their hard work put forth in providing budget materials/information during the budgeting process.

Alderman Berger moved that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15). Alderman Boulton seconded the motion.

The motion passed unanimously on a roll call vote cast as follows: Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye

There being no further regular business the meeting adjourned at 8:35 p.m.

Mayor

ATTEST:

City Clerk